TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1900.

No. 419.

FOURTEEN DIAMOND RINGS, EMIL J. PEPKE, CLAIMANT, PLAINTIFF IN ERROR,

vs.

THE UNITED STATES.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

FILED SEPTEMBER 12, 1900.

SUPREME COURT OF THE UNITED STATES.

October Term, 1900.

No. 419.

FOURTEEN DIAMOND RINGS, EMIL J. PEPKE, CLAIMANT, PLAINTIFF IN ERROR, VS. THE UNITED STATES.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

Pleas had at a regular term of the district court of the United States for the northern division of the northern district of Illinois, begun and held in the United States court-rooms, in the city of Chicago, in said division of said district, on the first Monday of July, it being the 2nd day thereof, in the year of our Lord one thousand nine hundred, and of the Independence of the United States of America the one hundred and twenty-fourth year.

Present: The Hon. Christian C. Kohlsaat, judge of said court, presiding; John C. Ames, United States marshal for said district, and T. C. MacMillan, clerk of said court.

THE UNITED STATES
vs.
FOURTEEN DIAMOND RINGS. } 9298.

Be it remembered that heretofore, to wit, on the 1st day of June, A. D. 1900, it being one of the days of the December term of the district court of the United States for the northern division of the northern district of Illinois, begun and held in the United States court-rooms, in the city of Chicago, in said division of said district, on the third Monday of December, it being the 18th day thereof, in the year of our Lord 1899, and of the Independence of the United States of America the 124th year, came S. H. Bethea, U. S. attorney for said district, and filed in the clerk's office of said court an information on seizure, under customs laws; which said information is in the words and figures following, to wit:

In the District Court of the United States of America for the Northern District of Illinois, Northern Division, of the May Adjourned Term, in the Year Nineteen Hundred.

NORTHERN DISTRICT OF ILLINOIS, } *sct:*
Northern Division,

Be it remembered that S. H. Bethea, attorney of the United States of America for the northern district of Illinois, who for the said

United States in this behalf prosecutes, comes in person into the district court of the said United States for the northern division of the said northern district of Illinois, at the city of Chicago, on this first day of June, in this same term, and for the said United States gives the court here to understand and be informed that on the twenty-fourth day of May, in the year nineteen hundred, on land, at the city of Chicago aforesaid, in the division and district aforesaid and the collection district of Chicago, Thomas H. Keefe, then a customs officer of the said United States, did seize certain property—that is to say, fourteen diamond rings—and delivered the same to the collector of customs of the said United States for the said collection district, who now holds the same in his custody, within the judicial and collection districts aforesaid, as forfeited to the said United States for the causes following, to wit:

1. For that the said merchandise so seized, as aforesaid, the same being merchandise by law subject to duty and which should have been invoiced, was lately before the time of the said seizure fraudulently and knowingly imported and brought into the said United States contrary to law—that is to say, by being knowingly and willfully smuggled and clandestinely introduced into the said United States without payment of or accounting for such duty, and with intent to defraud the revenue of the said United States, contrary to the form of the statute of the same in such case made and provided.

2. And for that heretofore, to wit, on the first day of May, in the year nineteen hundred, to wit, at the port of San Francisco, the said property so seized was fraudulently and knowingly imported and brought into the said United States contrary to law—that is to say, that the property aforesaid, the same then and there being merchandise by law subject to duty and which should have been invoiced, was then and there knowingly and willfully smuggled and clandestinely introduced into the said United States, with intent to defraud the revenue thereof, by one Emil J. Pepke, without paying or accounting for such duty on the said merchandise, contrary to the form of the statute of the said United States in such case made and provided.

3. And for that heretofore, to wit, on the said first day of May, in the year nineteen hundred, the said property so seized was imported and brought by the said Emil J. Pepke from a foreign country, to wit, the island of Luzon, one of the Philippine islands, into the said United States, at the port of San Francisco aforesaid, and when so imported and brought it was merchandise subject to lawful duties accruing thereon to the said United States, and the said Emil J. Pepke then and there, with intent to defraud the revenue of the said United States, did willfully omit and neglect to pass the said merchandise through the custom-house of the said United States at the said port of San Francisco, or to submit the same for examination to the proper officers of the revenue of the said United States, or to disclose and declare to their proper officers of the customs at that port the true character, nature, intended use, and destination of the said merchandise, by means whereof the said United States were then and there deprived of the lawful duties so accruing on the said merchandise, as aforesaid, contrary to the form of the statute of the said United States in such case made and provided.

4. And for that lately before the time of the said seizure the articles aforesaid, being dutiable articles of merchandise, were knowingly

imported and brought into the said United States from Manila, in the island of Luzon, one of the Philippine islands, by the said Emil J. Pepke, with intent on his part to defraud the revenue of the said United States, without being passed through the proper custom-house of the said United States and without being submitted for examination to the proper officers of the revenue of the same, contrary to the form of the statute of the said United States in such case made and provided.

5. And for that lately before the said seizure, to wit, on the said first day of May, in the year nineteen hundred, the said property so seized, being merchandise by law subject to the payment of duties to the said United States upon being imported or brought into the same, was fraudulently and knowingly imported and brought into the said United States by some person or persons to the said attorney as yet unknown, contrary to law—that is to say, without entry of the said merchandise being made with any collector of customs of the said United States, and without declaration thereof being made to any proper revenue officer of the said United States, and without the payment or accounting for the said duties on the same, contrary to the form of the statute of the said United States in such case made and provided.

By reason of which premises and by force of the statute aforesaid the said property became and is forfeited to the said United States. Wherefore the said attorney of the said United States who prosecutes, as aforesaid, for the said United States prays that due process of law may be awarded in this behalf to enforce such forfeiture of the said property so seized, as aforesaid, and to give notice to all persons concerned to appear on the return day of such process and show cause, if any they have, why such forfeiture should not be adjudged.

S. H. BETHEA,
United States Attorney.

Endorsed: U. S. district court for the N. dist. of Ills., N. div. The United States *vs.* Fourteen Diamond Rings. Information on seizure under customs laws, sec. 3082, R. S. Filed June 1st, A. D. 1900. T. C. MacMillan, clerk. S. H. Bethea, U. S. att'y N. dist. Ill.

And afterwards, to wit, on the 1st day of June, A. D. 1900, there was issued out of and under the seal of said court in the above-entitled cause a monition directed to the marshal of the northern district of Illinois, which said monition is in the words and figures following, to wit:

UNITED STATES OF AMERICA, }
Northern District of Illinois, Northern Division, } *ss:*

The United States of America to the marshal of the northern district of Illinois, Greeting:

Whereas an information has been filed in the district court of the United States in and for the northern district of Illinois on the first day of June, in the year of our Lord one thousand nine hundred, by S. H. Bethea, United States attorney for the said district, on behalf of the said United States, against certain merchandise, to wit, fourteen diamond rings, for reasons and causes in said information mentioned,

and praying the usual process and monition of the said court in that behalf to be made, and that all persons having or pretending to have any right, title, or interest therein may be cited to appear and answer all and singular the matters in said information set forth, and that this court would be pleased to pronounce for the forfeiture and condemnation of the said merchandise: You are therefore commanded to attach the said merchandise now in the possession of the collector of customs for the port and district of Chicago, and to detain the same in your custody until the further order of this court respecting the same, and to give notice by publication for fourteen days previous to the day of trial, and by notice posted in the most public manner, for the space of fourteen days, at or near the place of trial, of such seizure or information to all peasons claiming the said merchandise or knowing or having anything to say why this court should not pronounce against the same, according to the prayer of the said information, and that they be and appear before the said court, to be holden in and for the northern district of Illinois, at the United States court-room, in the city of Chicago, in the said district, on the first Monday in July next, if that be a day of jurisdiction; if not, then on the first day of jurisdiction thereafter, at 10 o'clock in the forenoon of that day, and then and there to interpose a claim to the same and to make their allegations in that behalf, and of what you shall have done in the premises do you then and there make return, together with this writ.

Witness the Honorable Christian C. Kohlsaat, judge of said court, this 1st day of June, in the year of our Lord one thousand nine hundred, and of our Independence the 124th year.

T. C. MacMillan, *Clerk*. [seal.]

Endorsed: 1317. No. 9298. District court United States, northern district of Illinois, northern division. In admiralty. United States *vs.* Fourteen Diamond Rings. Monition. Returnable first Monday in July, A. D. 1900. T. C. MacMillan, clerk.

And afterwards, to wit, on the 2nd day of July, A. D. 1900, said monition was returned and filed in said court, with the marshal's return thereon endorsed, in the words and figures following, to wit:

I have executed this writ within my district as follows, to wit: By taking into my custody the within-described merchandise, to wit: fourteen diamond rings, on June 1st, A. D. 1900, and have the same now in my possession. I also caused a notice of publication to be published in the Chicago Legal News at Chicago, Ills., for 14 days prior to this 2d day of July, A. D. 1900.

John C. Ames,
U. S. Marshal, Nor. Dist. Ills.,
By D. A. Fraley, *Dep.*

Service	$2.00
1 mile	.06
Total	$2.06
Expense publication	3.00
Total	$5.06

Endorsed: Returned and filed 1st day of July, 1900. T. C. MacMillan, clerk. S. H. Bethea, U. S. att'y, N. dist. Ill.

And afterwards, to wit, on the 9th day of July, A. D. 1900, there was filed in the clerk's office of said court a plea in said cause; which said plea is in the words and figures following, to wit:

In the District Court of the United States of America for the Northern District of Illinois, Northern Division.

UNITED STATES
v.
FOURTEEN DIAMOND RINGS. } Information.

The plea of Emil J. Pepke, claimant of the property seized herein, to the information exhibited against the said property by S. H. Bethea, district attorney, as aforesaid, on behalf of the said United States in the district court of the said United States for the northern division of the northern district of Illinois.

And now comes the said Emil J. Pepke, by Lawrence Harmon and Charles H. Aldrich, his attorneys, and, having heard the said information read, for plea in this behalf to each and all of the counts of said information, says:

1st. That this claimant was born in, was at his birth, has always been, and now is a citizen of the United States, and that on the 29th day of April, 1898, he, then being a citizen of North Dakota, enlisted in Company I of the First regiment of the North Dakota United States volunteer infantry, at Wahpeton, in the State of North Dakota, and was with said regiment assigned for duty in the island of Luzon, in the Philippine islands, and continued in said military service of the United States from the time of his enlistment, serving in said company in said island of Luzon, until the said regiment was ordered to return to the United States on the 31st day of July, 1899, and upon arriving at San Francisco, California, was ordered to Camp Presidio, and was there discharged on the 25th day of September, A. D. 1899, at which time he received an honorable discharge, commending him as a soldier who had rendered excellent service and was of excellent character, and showing the military engagements in which he had taken part while in said island of Luzon, and that he was wounded while in said service, at the battle of Tobac, in the island of Luzon, while serving under General Lawton.

2nd. That whilst in the island of Luzon, engaged as herein stated, he purchased eleven of the diamonds described in the information and loaned money to other soldiers engaged in the service of the United States upon the security of the three other rings, which, the owners failing to redeem, became his property while he was in Camp Presidio, California, after the return of his regiment to the camp from Manila.

3rd. That all of the rings were purchases or loans made subsequent to the ratification of the treaty of peace between the United States and Spain and the proclamation of the same by the President of the United States.

4th. That the respondent admits that the said rings were seized on the eighteenth day of May, 1900, and not on the 24th day of May, as in the said information stated, at the city of Chicago, in the division and district aforesaid, by T. B. Keefe, as in the said information alleged; but the respondent specifically denies that he fraudulently imported the same into the United States or knowingly, willfully, or

clandestinely introduced the same into the United States with intent to defraud the revenues of the United States, contrary to the forms of the statute in such case made and provided, but asserts that the said rings were purchased and brought into the United States as hereinafter set forth and not otherwise.

5th. And the respondent and owner of said property denies that at the time of such purchase and at the time that said merchandise was brought into the United States, as aforesaid, the same were subject to duty and should have been invoiced, as in the first, second, third, fourth, and fifth counts of the said information stated, but, on the contrary, the respondent and owner, Emil J. Pepke, says that by the ratification of the treaty of peace between the United States and Spain and the proclamation thereof the Philippine islands, including the island of Luzon, became a part of the territory of the United States, and, being such, it was and is beyond the power of Congress or any collection or other officer of the United States to require the respondent and owner of said goods, being a native-born citizen of the United States, to pay duties on *upon* merchandise purchased in said island of Luzon, then and there being a part of the territory of the United States, and brought by him into California, then and there being another portion or part of the territory of the United States, and removed by him from there to the State of North Dakota and from there to the State of Illinois, both being a part of the territory of the United States, and that the imposition of any such duty by any pretended authority of the United States is in violation of the constitutional rights of the said Emil J. Pepke, as the owner of said property.

6th. And for further answer to the first, second, third, fourth, and fifth paragraphs of the said counts of the information this respondent, denying any fraudulent intention to defraud the revenue of the United States, as in the several paragraphs alleged, says that the customs laws of the United States were not and are not applicable to the property described in said information, and that said property was not on May eighteenth, the date of said seizure, or on May 24th, the alleged date of said seizure, or at any other time subject to seizure under the customs laws of the United States, for the following reasons, to wit:

First. That this respondent purchased and acquired said property subsequent to the exchange of the ratifications of the treaty of peace between the United States and the Kingdom of Spain and the proclamation of said treaty by the President of the United States in the island of Luzon, a part of the territory of the United States ceded by the said treaty to the United States, and over which the said United States was at the time of such purchase and acquisition of said property then exercising exclusive dominion and sovereignty.

Second. That this respondent at the time of such purchase was a citizen of North Dakota and of the United States of America and a volunteer soldier of the United States and engaged in its service under the flag thereof in said island of Luzon, being then and there a member of Company I of the First regiment, North Dakota United States volunteer infantry, and under the general control and command of Major General Otis, commanding officer of the United States in said island of Luzon; that he accompanied his regiment which was ordered to San Francisco, California, leaving Luzon on the 31st day of July, 1899, and that he brought said property with him upon the United States transport vessel engaged in the service of the Government of

the United States for the transportation of said regiment from Manila, in said island of Luzon, to San Francisco, California; that he brought said property to San Francisco, a part of the United States, from there to North Dakota, and from there to Illinois, where the same was seized on the eighteenth day of May, 1900, on the pretense that the same were, as in said information stated, subject to duty under the customs laws of the United States, which pretense and seizure of said goods, the respondent submits, is contrary to said respondent's right as a citizen of the United States under the Constitution of the United States, and particularly under section 2 of article 4 thereof, by which the respondent, as such citizen, is entitled to all the privileges and immunities of citizens in several States, and that respondent insists and asserts as a defense to said information that under article 1, section 8, of the Constitution of the United States Congress is required in laying and collecting taxes to see to it that all taxes and duties shall be uniform throughout the United States, and forbidden to levy any tax or duty on articles imported from any State or Territory of the United States, or to give any preference in any regulation of commerce or revenue over any port or place in the United States, and that the imposition of duties upon merchandise acquired in the territory of Luzon and brought to Illinois, as herein stated, is in conflict with these and other provisions of the Constitution of the United States and of the respondent's rights as a citizen thereof.

Wherefore this claimant says that the said property seized herein did not become nor is the same forfeited as in the said information is alleged, and prays that the same may be restored to him by the decree of this honorable court, and that the said information may be dismissed, with costs to this claimant, to be taxed.

EMIL J. PEPKE.

STATE OF ——, } ss:
County of ——, }

I, Emil J. Pepke, on oath say that I have read the above and foregoing plea and know the contents thereof; that the same is true in all respects.

EMIL J. PEPKE.

Subscribed and sworn to before me, a notary public in and for said county and State, this 6th day of July, 1900.

[SEAL.] E. R. SINKLER,
Notary Public.

LAWRENCE HARMON,
CHARLES H. ALDRICH,
Attorneys for Claimant.

STATE OF NORTH DAKOTA, } ss.
County of Walsh, }

I, N. H. Kinde, clerk of the district court within and for the county of Walsh, do hereby certify that E. R. Sinkler, Esq., is a notary public in and for Walsh county; that his commission is dated January 3, 1898, and will expire Jan. 3, 1904.

Witness my hand and seal of said court, at Grafton, this 5th day of July, 1900.

[SEAL.] W. H. KINDE, *Clerk.*

Endorsed: 9298. United States district court. United States *v.* Fourteen Diamonds. Plea. Filed in the clerk's office, U. S. district court, Jul- 9, 1900, at 1 p. m. T. C. MacMillan, clerk. Lawrence Harmon, Charles Aldrich, att'ys for claimant. $1.00 deposit.

And afterwards, to wit, on the 9th day of July, A. D. 1900, there was filed in the clerk's office of said court in the above-entitled cause a demurrer to plea, said demurrer being in the words and figures following, to wit:

In the District Court of the United States of America for the Northern District of Illinois, Northern Division.

UNITED STATES OF AMERICA, *vs.* FOURTEEN DIAMOND RINGS. } No. 9298.

And the said attorney of the said United States, who now prosecutes, as aforesaid, as to the pleas of the said Emil J. Pepke, claimant herein, by him above pleaded, says that the said pleas and each of them and the matters therein contained, in manner and form as the same are above pleaded and set forth, are not sufficient in law for the said United States to answer the same; and this he, for the said United States, is ready to verify. Wherefore, for want of sufficient plea or pleas in this behalf, he, for the said United States, prays judgment, etc.

S. H. BETHEA,
United States Attorney.

Endorsed: No. 9298. United States *vs.* Fourteen Diamond Rings. Demurrer to pleas. Filed July 9, 1900. T. C. MacMillan, clerk. S. H. Bethea, U. S. att'y.

And afterwards, to wit, on the 10th day of July, A. D. 1900, the following order was had and entered of record in said cause before the Hon. Christian C. Kohlsaat, judge, to wit:

THE UNITED STATES *vs.* FOURTEEN DIAMOND RINGS—EMIL J. PEPKE, Claimant. } 9298.

This cause come on for consideration upon the demurrur of the United States to the answer of Emil J. Pepke, the claimant herein, to the said information, and the court, having heard arguments of counsel and being duly advised in the premises, doth sustain the said demurrer of the United States to said answer.

Whereupon the said claimant, by his attorneys, elected to abide by his said answer and refused to plead or answer further. The court thereupon gave judgment for the petitioner upon said demurrer. It is therefore ordered, adjudged, and decreed (1) that all persons whosoever, other than said claimant, be, and the- are hereby, decreed in contumacy and default; (2) the answer of said Emil J. Pepke is adjudged and decreed to show no defense to said information, the said property purchased in the island of Luzon, as in said answer set forth, being

held and decreed subject to the customs laws of the United States and of the United States and subject to seizure and forfeiture as in this case had, as provided by the statutes of the United States; (3) that said fourteen diamonds now in the custody of the marshal for this district be, and the same are hereby, condemned as forfeited to the use of the United States; (4) that unless a writ of error be prosecuted from this judgment within thirty days the usual writ of *venditione exponas* will be issued to the marshal of this court, commanding him to sell all the said property and bring the proceeds into this court, to be distributed according to law. Costs to be taxed and are awarded against said claimant. A writ of error will be allowed the claimant herein upon filing a bond, to be approved by the clerk of this court, in the sum of two hundred and fifty dollars, conditioned according to law.

And afterwards, to wit, on the 17th day of July, A. D. 1900, there was filed in the clerk's office of said court in the above-entitled cause a petition for writ of error, said petition being in the words and figures following, to wit:

In the District Court of the United States of America for the Northern District of Illinois, Northern Division.

UNITED STATES
v.
FOURTEEN DIAMOND RINGS—EMIL J. PEPKE, Claimant.

Petition for Writ of Error.

Comes now, Emil J. Pepke, the only claimant to the property seized by the collector of customs for the port of Chicago, and being the same property described in the information herein, and says that on or about the 10th of July, 1900, this court entered judgment herein in favor of the United States and against this claimant and against the property in said information described, in which judgment and proceedings had thereunder in this cause certain errors were committed to the prejudice of this claimant, all of which will in detail appear from the assignment of errors which is filed with this petition.

Wherefore this claimant prays that a writ of error may issue in his behalf to the Supreme Court of the United States for the correction of errors so complained of, and that a transcript of record, proceedings, and papers in this cause, duly authenticated, may be sent to the Supreme Court of the United States.

LAWRENCE HARMON,
CHARLES H. ALDRICH,
Att'ys for Emil J. Pepke, Claimant.

Endorsed: U. S. district court. United States *v.* Fourteen Diamond Rings. Petition for writ of error. Filed in the clerk's office, U. S. dist. ct., Jul- 17, 1900, at 10.45 o'clock a. m. T. C. MacMillan, clerk. Lawrence Harmon, Charles T. Aldrich, for pet'r.

And afterwards, to wit, on the 17th day of July, A. D. 1900, there was filed in the clerk's office of said court an assignment of errors in

said cause; which said assignment of errors is in the words and figures following, to wit:

In the District Court of the United States of America for the Northern District of Illinois, Northern Division.

THE UNITED STATES
v.
FOURTEEN DIAMOND RINGS—EMIL J. PEPKE, Claimant.

Assignment of Errors.

The claimant in this action, in connection with his petition for a writ of error, makes the following assignment of errors, which he avers occurred upon the trial of this cause, to wit:

First. The court erred in sustaining the demurrer of the United States to the answer of this claimant to the information filed herein.

Second. The court erred in holding that the fourteen diamonds described in the information and answer thereto purchased by this claimant in the island of Luzon subsequent to the treaty of peace between the United States and Spain, by which said island was ceded to the United States, and the proclamation thereof by the President of the United States, were subject to the customs laws of the United States and liable for seizure because no entry under said laws was made at any port of the United States and duty paid thereon; which holding is in violation of the rights of the claimant under the Constitution of the United States, in this, to wit:

A. That it denies to the claimant, a citizen of the United States and of the State of North Dakota, the rights, privileges, and immunities of citizens of other States of the United States.

B. That such seizure constituted the taking of the property of the claimant without due process of law.

C. That by article 1, section 8, clause 1, of the Constitution of the United States it is provided that all duties, imposts, and excises shall be uniform throughout the United States; that by the treaty of peace between the United States and Spain and the *and the* proclamation thereof by the President of the United States the island of Luzon became a part of the United States, and to impose a duty upon goods or merchandise purchased by the claimant subsequent to such proclamation and brought by him into the United States, as in said answer set forth, violates said provisions of the Constitution.

Wherefore the claimant prays that the judgment and decree of said court forfeiting said fourteen diamonds and holding the answer of the claimant herein to be insufficient be in all things reversed and set aside.

LAWRENCE HARMON,
CHARLES H. ALDRITCH,
Attorneys for Plaintiff in Error.

Endorsed: 9298. Fourteen Diamond Rings—E. J. Pepke, claimant—*v.* United States. Assignment of errors. Filed in the clerk's office, U. S. district court, July 17, 1900, at 10.45 o'clock a. m. T. C. MacMillan, clerk. Lawrence Harmon, Charles H. Aldritch, for pl'f in error.

And afterwards, to wit, on the 19th day of July, A. D. 1900, the following order was had and entered of record in said cause before the Hon. Christian C. Kohlsaat, judge, to wit:

UNITED STATES OF AMERICA
v.
FOURTEEN DIAMOND RINGS—EMIL J. PEPKE, Claimant. } 9298.

Comes now Charles H. Aldritch, Esq., one of the attorneys for the claimant herein, and it appearing to the court that a petition for a writ of error and an assignment of errors have been filed in this cause, it is ordered that a writ of error be, and hereby is, allowed to have reviewed in the Supreme Court of the United States the judgment heretofore entered herein, and that the amount of bond on said writ of error be, and hereby is, fixed at two hundred and fifty dollars. The claimant herein is allowed fifteen days within which to file said bond, which bond is to be approved by the clerk of this court, and shall operate as a supersedeas when so approved.

And afterwards, to wit, on the 19th day of July, A. D. 1900, there was filed in the clerk's office of said court claimant's bond for costs in said cause; which said bond is in the words and figures following, to wit:

Know all men by these presents that we, Emil J. Pepke, of Grafton, North Dakota, and The United States Fidelity and Guaranty Company of the —— of ——, in the State of Illinois, are held and firmly bound unto the United States of America in the sum of two hundred and fifty dollars, to be paid to the said United States; for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this seventh day of July, in the year 1900.

Whereas an information was filed in the district court of the said United States for the northern district of Illinois on the first day of June, in the year 1900, by S. H. Bethea, attorney of the said United States for the district aforesaid, on behalf of the said United States against certain property for reasons and causes in the said information mentioned, and praying that the same be condemned as forfeited, which property is set forth and described in the said information (in the cause entitled The United States of America *vs.* Fourteen Diamond Rings, No. —);

And whereas a claim has been filed in the said court by the said Emil J. Pepke, as owner of the said property:

Now, therefore, the condition of this obligation is such that in case the said claimant shall not sustain his said claim, if the said obligors, or either of them, or the heirs, executors, or administrators of them, or either of them, shall pay all such costs, as by reason of the failure of the said claimant to sustain his said claim he ought to pay, then this obligation shall be void, and otherwise shall remain in full force.

And in case payment of any costs shall be awarded in this behalf against the said claimant, and the amount of such costs shall not be forthwith paid into court, we, the said obligors, submitting ourselves to the jurisdiction of the court, hereby consent and agree that a summary judgment may be entered against us, or any or either of us, for

the penalty of this obligation, with award of execution to be satisfied on making the amount of such costs.

EMIL J. PEPKE. [SEAL.]
[SEAL.] THE UNITED STATES FIDELITY & GUARANTY COMPANY,
By GEORGE D. WEBB, *Attorney-in-fact.* [SEAL.]

Endorsed: U. S. district court, northern district of Illinois. The United States, &c., *vs.* Fourteen Diamond Rings. Claimant's bond for costs. Filed July 19, 1900, *nunc pro tunc* as of July 7, 1900. T. C. MacMillan, clerk.

And afterwards, to wit, on the 19th day of July, A. D. 1900, the following order was had and entered of record in said cause before the Hon. Christian C. Kohlsaat, judge, to wit:

UNITED STATES OF AMERICA
v. } 9298.
FOURTEEN DIAMOND RINGS—EMIL J. PEPKE, Claimant.

Come now the parties, by their attorneys, and it appearing to the court that a bond should have been filed with the claim of the claimant herein, according to the statute of the United States in such case made and provided, which was omitted to be done, it is hereby ordered that the bond for two hundred and fifty dollars, with Emil J. Pepke as principal and the United States Fidelity and Guaranty Company as surety, tendered herewith, be, and the same is, allowed to be filed as of the 7th day of July, 1900, the date of the filing of the said claim, and have the same force and effect as if filed on that date.

And afterwards, to wit, on the 19th day of July, A. D. 1900, there was filed in the clerk's office of said court in the above-entitled cause a bond; which said bond is in the words and figures following, to wit:

UNITED STATES OF AMERICA, *ss:*

In the Supreme Court of the United States.

FOURTEEN DIAMOND RINGS—EMIL J. PEPKE, Claimant, Plaintiff in Error,
v.
UNITED STATES OF AMERICA, Defendant in Error.

Bond.

Know all men by these presents that we, Emil J. Pepke, as principal, and the United States Fidelity & Guaranty Company, as surety, are held and firmly bound unto The United States of America, defendant in error, in the sum of two hundred and fifty dollars ($250.00), to be paid to the said United States; to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our successors, representatives, and assigns, firmly by these presents.

Sealed with our seals and dated the 14th day of July, 1900.

Whereas the above-named claimant, Emil J. Pepke, has sued out a writ of error to the United States Supreme Court to reverse the judg-

ment in the above-entitled cause by the United States district court for the northern district of Illinois, northern division:

Now, therefore, the condition of this obligation is such that if the above-named Emil J. Pepke, claimant, shall prosecute said writ to effect and answer all costs and damages if he shall fail to make good his plea, then this obligation shall be void; otherwise to remain in full force and virtue.

THE UNITED STATES FIDELITY AND GUARANTY COMPANY,
By GEORGE D. WEBB, *Attorney-in-fact.*
EMIL J. PEPKE. [SEAL.]

Approved:
T. C. MACMILLAN, *Clerk.*

Endorsed: 9298. The United States *vs.* 14 Diamond Rings. Bond. Filed July 19, 1900. T. C. MacMillan, Clerk.

In the District Court of the United States for the Northern District of Illinois, Northern Division.

I, T. C. MacMillan, clerk of the district court of the United States of America for the northern district of Illinois, do hereby certify the above and foregoing to be a true and correct copy of the transcript of the record and proceedings had in case No. 9298, in which The United States is plaintiff and Emil J. Pepke is defendant, as the same appears from the records and files now remaining in my custody and control.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, in my office, at Chicago, in said district, this 31st day of July, A. D. 1900.

[Seal of Dist. Court U. S., Northern Dist. Illinois, 1855.]

T. C. MACMILLAN, *Clerk.*

UNITED STATES OF AMERICA, *ss:*

In the Supreme Court of the United States.

FOURTEEN DIAMOND RINGS—EMIL J. PEPKE, Claimant, Plaintiff in Error,
v.
UNITED STATES OF AMERICA, Defendant in Error. } Writ of Error.

The President of the United States to the honorable the judge of the United States district court for the northern district of Illinois, northern division, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said district court, before you, between Fourteen Diamond Rings—Emil J. Pepke, claimant, plaintiff in error, and United States of America, defendant in error, a manifest error hath happened, to the great damage of the said Emil J. Pepke, claimant, as by his complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the party aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly,

you send the record and proceedings aforesaid, with all things concerning the same, to the United States Supreme Court, together with this writ, so that you have the same at the city of Washington, District of Columbia, on the eighth day of October next in the said Supreme Court of the United States, to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court of the United States may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, the nineteenth day of July, in the year of our Lord one thousand nine hundred.

[Seal of Dist. Court U. S., Northern Dist. Illinois, 1855.]

T. C. MacMillan,
Clerk of the District Court of the United States for the Northern District of Illinois, Northern Division.

Allowed by—
Kohlsaat, *Judge.*

Northern District of Illinois, *ss:*

In obedience to the above writ, I herewith transmit to the Supreme Court of the United States a true and complete transcript of the record and proceedings in the foregoing entitled cause this 19th day of July, A. D. 1900.

T. C. MacMillan,
Clerk U. S. Dist. Court, Nor. Dist. Illinois.

[Endorsed:] 9298. United States *vs.* Fourteen Diamond Rings. Writ of error. Filed July 19, 1900. T. C. MacMillan, clerk. Copy deposited for defendant in error in the clerk's office U. S. dist. court, nor. dist. Illinois.

United States of America, *ss:*

To United States of America, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within 30 days from the date hereof, pursuant to a writ of error, filed in the clerk's office of the district court of the United States, wherein Fourteen Diamond Rings—Emil J. Pepke, claimant, is plaintiff in error, and United States of America, defendant in error, to show cause, if any there be, why the decree rendered against the said claimant, as in the said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Christian C. Kohlsaat, district judge, this 19th day of July, in the year of our Lord one thousand nine hundred.

Kohlsaat, *Judge.*

On this 20th day of July, in the year of our Lord one thousand nine hundred, personally appeared Frederick J. Grumme, before me, the

subscriber, and makes oath that he delivered a true copy of the within citation to S. H. Bethea, United States attorney.

FREDERICK J. GRUMME.

Sworn to and subscribed the 20th day of July, A. D. 1900.

CHAS A. BUELL,
Deputy Clerk, U. S. Dist. Court, Nor. Dist. of Ill.

[Endorsed:] 9298. Supreme Court of the United States. The United States *vs.* 14 Diamond Rings. Citation to the Supreme Court of the United States. Filed July 20, 1900. T. C. MacMillan, clerk.

Endorsed on cover: File No. 17,904. N. Illinois D. C. U. S. Term No., 419. Fourteen Diamond Rings—Emil J. Pepke, claimant, plaintiff in error, *vs.* The United States. Filed September 17th, 1900.